IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 63 of 2006
With
COMPANY PETITION No. 64 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAR AUTO PRODUCTS LTD - Petitioner(s)
Versus
... - Respondent(s)

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Appearance :
MRS SANGEETA N PAHWA for Petitioner(s) : 1,
MR PURVISH J MALKAN for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/11/2006

ORAL JUDGMENT

Company Petition No.63 of 2006 has been filed by M/s Sar Auto Products Ltd. (transferee company) for sanctioning the scheme of amalgamation of petitioner

company with P.P.S. Trading Company Pvt Ltd. (transferor company) under the provisions of section 391 and 394 of the Companies Act, 1956.

Company Petition No.64 of 2006 is filed by the transferor company for sanction of scheme of amalgamation of the petitioner company with M/s Sar Auto Products Ltd. (transferee company).

2. It is submitted that both transferee and transferor companies belong to the same management group and that the amalgamation of these two companies will channelize synergies and will lead to the better utilization of available sources and will result into higher returns on capital. It is also further submitted that upon amalgamation, the company would be in a better position to defray the surplus funds which in turn can be utilized for further growth, for the business of the company. The advantages by virtue of the amalgamation of the company has been narrated in detail in both the company petitions.

3. So far as transferee company is concerned, the scheme of amalgamation has been approved by the equity shareholders in their meeting held on 3-4-2006 held

pursuant to the order dated 3-3-2006 made by this Court passed in Company Application No.90 of 2006. Chairman report supported by the affidavit dated 24-4-2006 is on record. The report suggests that all the members present in the meeting have unanimously approved the scheme. It is also further submitted that this being transferee company, meeting of the creditors was not required to be held.

4. So far as transferor company is concerned, the scheme of amalgamation has been approved by all the equity shareholders and unsecured creditors and the consent letters were filed along with Company Application No.89 of 2006 and considering the same, this Court passed an order dated 3-3-2006 dispensing with holding of the meeting of the shareholders, unsecured creditors and secured creditors.

5. After both these petitions were admitted, the same were duly advertised in English daily “Indian Express” and Gujarati local daily “Loksatta-Jansatta”. The publications in Government gazette have been dispensed with. After the advertisement in the aforesaid two dailies, no one has come forward with any objection to

the scheme of amalgamation. Notices of the petitions have been served upon the Central Government through Regional Director, Ministry of Company Affairs (Western Region) as well as the Official Liquidator. Shri Purvish J. Malkan, learned Addl. Central Government Standing Counsel appears on behalf of the Central Government. He has produced on record a copy of the communication dated 26-9-2006 from the office of the Registrar of Companies and it is stated that the Director has decided not to oppose the petitions.

The Official Liquidator has submitted his report dated 18th September 2006. The Official Liquidator has submitted that the Auditors appointed for the purpose of scrutiny and investigation of the books of accounts and affairs of company, has submitted that on the basis of the information and according to the explanation given to them and the books of accounts produced before them the acts and transactions of the company were conducted within the objects mentioned in the Memorandum of Association of the company and that the affairs of the company have not been conducted in a manner prejudicial to the interest of the members or to public interest.

6. I have heard Ms Pahwa, learned advocate appearing on

behalf of the respective petitioner companies. Considering the averments in the company petitions, report of the Official Liquidator as well as the letter addressed by the Regional Director, Mumbai and considering the proposed scheme of amalgamation, it appears to the Court that the amalgamation would be in the interest of the companies and their shareholders and creditors and therefore, prayer in terms of para 15 A) of Company Petition Nos.63 of 2006 and 64 of 2006 are hereby granted. Both these petitions are disposed off accordingly.

7. So far as cost to be paid to the learned Addl. Central Government standing Counsel is concerned, the same is quantified at Rs.3500/- per petition and the same may be paid to Shri Malkan, learned Addl. Central Government standing Counsel by the respective petitioners.

(M.R.SHAH,J.)

shekhar/-